



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35828]

The Apache Railroad Company, LLC—Corporate Family Transaction Exemption—The Apache Railway Company

The Apache Railroad Company, LLC (APA), and The Apache Railway Company (Apache) (collectively, applicants) have jointly filed a verified notice of exemption under 49 CFR 1180.2(d)(3) for a corporate family transaction.

According to the applicants, APA is a noncarrier and a limited liability company established for the purpose of owning and operating a common carrier short line railroad. Apache is an existing Class III railroad. Both are wholly owned subsidiaries of Snowflake Community Foundation (Snowflake), a noncarrier entity that, according to the applicants, was established to acquire Apache's common stock to preserve the railroad's track, facilities, and operations. Applicants state that APA would acquire all of the assets, franchises, rights, obligations, and operations of Apache, which would be merged into APA. Consequently, APA would become a Class III railroad upon the consummation of this transaction.¹ According to the applicants, the purpose of this transaction is to enable Snowflake to obtain a federal loan in order to finance the acquisition of Apache's assets and operations.

¹ Pursuant to 49 CFR 1180.6(a)(7)(ii), applicants are required to submit "a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction." According to the applicants, an agreement has not yet been prepared. Applicants are directed to file a copy of the agreement as soon as it is available.

Unless stayed, the exemption will be effective on June 7, 2014 (30 days after the verified notice was filed). Applicants state that they intend to consummate the proposed transaction on or about mid-June 2014.

Applicants state that the transaction qualifies for the class exemption for corporate family transactions under 49 CFR 1180.2(d)(3) and have not indicated that the transaction would result in adverse changes in service levels, significant operational changes, or any changes in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under §§ 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because the only carrier involved is a Class III rail carrier.

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later May 30, 2014 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35828, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on John D.

Heffner, Strasburger & Price, LLP, 1025 Connecticut Ave., N.W., Suite 717,
Washington, DC 20036.

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Decided: May 19, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig

Clearance Clerk

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